

FORM NLRB 4477
(2-85)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 24

CENTRO UNIDO DE DETALLISTAS DE
PUERTO RICO

Employer

and

EDGAR CRUZ, An Individual

24-RD-486

Petitioner

and

FEDERACION DE TRABAJADORES DE LA
EMPRESA PRIVADA

Union

DECISION AND DIRECTION OF ELECTION

Upon the filing of a petition under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding¹, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

¹ The record reflects that although notified of the date of these proceedings, Federación De Trabajadores De La Empresa Privada, the incumbent certified union, did not appear at the hearing.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.²

3. The labor organization involved claims to represent certain employees of the Employer.³

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All clerical and supporting staff including those working in the communications, medical plans services, accounting, marketing and legal departments, secretaries and maintenance employees working for Centro Unido de Detallistas de Puerto Rico at its facility in San Juan, Puerto Rico excluding all other employees, confidential employees, guards and supervisors as defined in the Act.

There are approximately 16 employees in the Unit.

² Centro Unido de Detallistas de Puerto Rico, is an association of local retailers that provides various services to its dues paying members including accounting, labor, legal, medical plan and other services. During the past year, a representative period of its operations generally, the Employer received dues and other revenues from its members in excess of \$1,000,000. During this same period, the Employer purchased goods, materials, supplies and services valued in excess of \$50,000.00 from businesses located in Puerto Rico that, in turn, purchased and received these goods, materials, supplies and services directly from outside the Commonwealth of Puerto Rico.

³ The record reflects that the bargaining unit, previously certified by the Board in Case No. 24-RC-7664 on November 6, 1995, is covered under the terms of a collective bargaining agreement between the Union and the Employer that expires by its terms on June 30, 2004. Isamarie Sandoval, the Employer's Administration and Finance Director, testified that there have been eight years of prior collective bargaining history between the parties. The extant collective bargaining agreement contains a union security clause, a grievance and arbitration procedure, dues deduction, and other relevant provisions regarding wages, medical plan, sick leave, Christmas bonus, and holidays. The record also reflects that the Union, an organization that allows employee participation, has administered the collective bargaining agreement as evidenced by the filing of grievances relating to the alleged non-payment of contractual bonuses and that these grievances were pending arbitration. Under these circumstances I find that the Union is a labor organization within the meaning of Section 2(5) of the Act. Mac Towing, Inc., 262 NLRB 1331 (1982).

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations.⁴ Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by Federación de Trabajadores de la Empresa Privada.

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. **Excelsior Underwear, Inc.**, 156 NLRB 1236 (1966); **North Macon Health Care Facility**, 315 NLRB 359 (1994); **N.L.R.B. v. Wyman-Gordon Company**, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision 2 copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, La Torre de Plaza Suite 1002, 525 F.D. Roosevelt Ave., San Juan, Puerto Rico 00918-1002, on **May 11, 2004**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

⁴ As provided for in Section 103.20 of the Board's Rules and Regulations, the Employer is required to post copies of the Board's Official Notice of Election in conspicuous places at least 3 full working days (excluding the day of the election, Saturdays, Sundays, and holidays) prior to the date of the election; said notices are to remain posted until the end of the election. Failure to post the election notices as required by the Board's Rules and Regulations shall be grounds for setting aside the election whenever proper and timely objections are filed. An employer shall be conclusively deemed to have received copies of the election notices unless it notifies the Regional Office at least 5 working days prior to the commencement of the election that it has not received copies of said notices.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, D.C. 20570. This request must be received by the Board in Washington by **May 18, 2004**⁵



Dated May 4, 2004

at San Juan, Puerto Rico

/s/ _____
Marta M. Figueroa
Regional Director, Region 24
National Labor Relations Board

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⁵ In accordance with section 102.67 of the Board's Rules and Regulations, as amended, all parties are specifically advised that the Regional Director will conduct the election when scheduled, even if a request for review is filed, unless the Board expressly directs otherwise.